

STATE OF MINNESOTA

IN SUPREME COURT

C4-85-697

In re Amendments to Canon 5
of the Code of Judicial Conduct

O R D E R

By order filed February 14, 2006, we invited comment on amendments proposed to conform Canon 5 of the Code of Judicial Conduct to the holdings of the United States Court of Appeals for the Eighth Circuit in *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005), *cert. denied sub nom. Dimick v. Republican Party of Minnesota*, ___ U.S. ___ (2006) (*White II*). That comment period has expired, and we have considered the comments received. In the February 14 order, we also invited proposals for or comments concerning additional amendments that should be made based on the decisions in *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), *White II*, and related legal developments, to be submitted on or before April 28, 2006. The following amendments are adopted at this time, subject to additional, broader amendments that may be adopted based on consideration of all comments after the close of the longer comment period.

Based upon all the files, records, and proceedings here,

IT IS HEREBY ORDERED that the attached amendments to the Code of Judicial Conduct be, and the same are, prescribed and promulgated to be effective upon the filing of this order.

Dated: March 29, 2006

BY THE COURT:

/s/

Russell A. Anderson
Chief Justice

**AMENDMENTS TO CANON 5
OF THE CODE OF JUDICIAL CONDUCT**
(deletions indicated by strikethrough; additions indicated by underline)

CANON 5

A Judge or Judicial Candidate Shall Refrain From Political Activity Inappropriate to Judicial Office

A. In General.

Each justice of the Supreme Court and each Court of Appeals and district court judge is deemed to hold a separate nonpartisan office, Minn. Stat. 204B.06 subd. 6.

(1) Except as authorized in Section 5B(1), a judge or a candidate for election to judicial office shall not:

- (a) act as a leader or hold any office in a political organization; ~~identify themselves as members of a political organization, except as necessary to vote in an election;~~
- (b) publicly endorse or, except for the judge or candidate's opponent, publicly oppose another candidate for public office;
- (c) make speeches on behalf of a political organization; or
- (d) ~~attend political gatherings; or seek, accept, or use endorsements from a political organization; or~~
- ~~(e)~~ solicit funds for or pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.

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B. Judges and Candidates for Public Election.

(1) A judge or a candidate for election to judicial office may, except as prohibited by law,

- (a) speak to gatherings, ~~other than political organization gatherings,~~ on his or her own behalf;
- (b) appear in newspaper, television and other media advertisements supporting his or her candidacy; and
- (c) distribute pamphlets and other promotional campaign literature supporting his or her candidacy.

(2) A candidate shall not personally solicit ~~or accept~~ campaign contributions ~~or solicit publicly stated support~~, except as expressly authorized herein, and shall not personally ~~accept campaign contributions~~. A candidate may, however, establish committees to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting campaign contributions and public support from lawyers, ~~but shall not seek, accept or use political organization endorsements~~. Such committees shall not disclose to the candidate the identity of campaign contributors nor shall the committee disclose to the candidate the identity of those who were solicited for contribution ~~or stated public support~~ and refused such solicitation. A candidate may (a) make a general request for campaign contributions when speaking to an audience of 20 or more people; and (b) sign letters, for distribution by the candidate's campaign committee, soliciting campaign contributions, if the letters direct contributions to be sent to the address of the candidate's campaign committee and not that of the candidate. The candidate must take reasonable measures to ensure that the names and responses, or lack thereof, of those solicited will not be disclosed to the candidate, except that the candidate may be advised of aggregate contribution information in a manner that does not reveal the source(s) of the contributions. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

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